

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4676 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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NAVLABHAI PIDIABHAI SANGADIA

Versus

DISTRICT MAGISTRATE  
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Appearance:

MR SUNIL C PATEL for Petitioner

Mr Kamal Mehta, AGP, for Respondent No. 1, 2, 3  
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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 06/11/96

ORAL JUDGEMENT

By way of this special civil application the

petitioner has challenged the order of detention dated 2.5.1996 passed by the District Magistrate, Panchmahals, in exercise of powers under Gujarat Prevention of Anti-Social Activities, 1985, (hereinafter referred to as the PASA Act). It is alleged that the petitioner is a dangerous person within the meaning of Section 2(c) of the PASA Act.

2 It is contended by the learned counsel that while the last offence alleged to have been committed is of 12.8.1995, the petitioner's order of detention was passed on 2.5.1996. Thus, there is a delay in passing the order of detention. The learned counsael relies on the decision of the Apex Court reported in AIR 1994 SC 656.

3 The another contention raised by the learned counsel for the petitioner that the detenu has not been supplied with the coppies of the bail application in CR No.215 of 1993 dated 13.10.1993. This fact shows that the ground of bail application and the order was not considered by the detaining authority and on account of this the rights of the petitioner guaranteed under Article 22(5) of the Constitution of India have been infringed. He relies on the decision of the Apex Court reported in 1990 (2) SCC 1. In my view there is substance in the second contention raised by the petitioner more particularly, when the fact of non supply of the documents has not been controverted by the respondent. In view of the aforesaid, this special civil application is allowed. The order of detention dated 2.5.1996 is quashed and set aside. The petitioner shall be released forthwith if not required in any other case. Rule made absolute accordingly.

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